

REMARKS

This Amendment After Final is made in response to the Office Action dated November 18, 2007. Claims 1-5 and 32-43 were pending. By this Amendment, claims 32-43 have been canceled without prejudice. Applicants have carefully reviewed the arguments presented in the Office Action and respectfully request reconsideration of the claims in view of the remarks presented below. Applicants request that this Amendment After Final be entered for purposes of appeal.

Claims 1-4 were rejected under 35 U.S.C. 102 (e) as being anticipated by U.S. Patent No. 6,461,370 to Gray et al. (the "Gray patent"). Applicants strongly disagree with the Examiner's interpretation of the Gray patent. The Gray patent shows a filtering assembly including an expandable strut assembly made from an outer braid **56** coaxially disposed over an inner braid inner **54**. These inner and outer braids **54**, **56** collapse and expand a filter mesh **58** (the filter) and act as the mechanism for deploying and collapsing the filter mesh **58**. Collectively, these inner and outer braids **54**, **56** and mesh **58** form the filtering assembly. Claim 1 specifically recites that the filtering assembly is **rotatably** mounted on the shaft member near its distal end. However, the filtering assembly of the Gray patent is not rotatably mounted to the core wire **34** (the shaft member) as recited in claim 1. Rather, the distal end **57** of the inner and outer braids **54**, **56** are fixedly attached to the core wire and thus cannot possibly rotate on the core wire **34**. Applicants direct the Examiner to column 6, lines 56-63 of the Gray patent which reads as follows:

The filter may then be deployed by actuating an actuating mechanism (not shown) coupled to the core wire 34 for axially moving the shaft 38 relative to the core wire. As the shaft advances axially along the core wire in the distal direction, the filter basket 52, having its distal end 57 attached to the fixed core wire and its proximal end connected to the shaft, compresses axially and expands radially outwardly against the inner walls of the blood vessel.

Therefore, while the tubular shaft **38** and proximal end of the filtering assembly may slide along the core wire **34** to open and close the filter **58**, the filtering assembly is unable to rotate about the core wire **34** since the distal end **57** is attached to the core wire **34**. Accordingly, the Gray patent fails to disclose a filtering assembly that is rotatably mounted to a shaft member. Applicants submit that claim 1 is not anticipated by the Gray patent.

The Examiner has apparently interpreted this tubular shaft **38** as the outer tubular member recited in the pending claims. Additionally, the Examiner has apparently interpreted the coiled spring **46** as the inner tubular member. Claim 2 further calls for the shaft member to be a guide wire with a distal spring tip, the distal spring tip serving as a stop fitting which abuts against the inner tubular member. Applicants submit that this structure is also lacking in the Gray patent. The Gray patent does show a distal spring tip **66** attached to the end of the core wire **34**. However, the coil spring **46** which the Examiner considers to be the inner tubular member simply does not abut against this distal spring **66** as is required in claim 2. Figure 3 of the Gray patent shows the filter assembly in its collapsed position and Figure 4 show the filter assembly in its fully opened position. The filter assembly does not extend beyond the position shown in

Figure 4. It is clear that the inner member (spring **46**) does not abut the distal spring **66** in any manner during usage. Accordingly, the specific structure recited in claim 2 is not found in the Gray patent as well.

Claim 3 further states that each of the inner and outer tubular members has a proximal end and a distal end and the guide wire includes a second stop fitting in an abutting relationship with the **proximal ends** of the outer and inner tubular members. Again, the Examiner has interpreted the tubular shaft **38** as the outer tubular member and the spring **46** as the inner member. The Gray patent does not disclose the structure recited in claim 3, namely, a second stop fitting in an abutting relationship with the **proximal ends** of the outer and inner tubular members. Moreover, the Examiner has not indicated where such a structure can be found in the Gray patent. Accordingly, the Gray patent does not anticipate claim 3.

Claim 4 further requires the outer tubular member to extend over a portion of the spring tip coil of the guide wire. The tubular shaft **38** of the Gray device does not extend over the distal spring tip coil **66** of the core wire **34**. Reference is made with respect to Applicants position above regarding the positioning of the filter assembly from its collapsed position shown in Figure 3 and its fully expanded position as shown in Figure 4. The outer member **38** simply does not extend over the distal spring **66 at any time** during use. Applicants submit that the Gray patent does not anticipate claim 4.

For at least these reasons alone, the Gray patent fails to disclose the basic elements recited in claims 1-4. Accordingly, Applicants respectfully request the Examiner to withdraw the Gray patent as an anticipatory reference.

Claim 5 was rejected under 35 U.S.C. 103 (a) as being unpatentable over the Gray patent. Claim 5 is dependent on claim 2. As stated above, the Gray patent lacks the basic elements recited in claims 1 and 2. Therefore, Applicants submit that the claimed invention of claim 5 would not be obvious over the Gray patent. Applicants respectfully request the Examiner to withdraw the obviousness rejection applied to claim 5.

In view of the foregoing, it is respectfully urged that all of the present claims of the application are patentable and in a condition for allowance. The undersigned attorney can be reached at (310) 824-5555 to facilitate prosecution of this application, if necessary.

In light of the above amendments and remarks, Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,  
FULWIDER PATTON LLP

By: /Thomas H. Majcher/  
Thomas H. Majcher  
Registration No. 31,119

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